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In the

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-872

STATE OF LOUISIANA,
LOUISIANA MUNICIPAL ASSOCIATION and
PARISH OF CAMERON,
Petitioners,

VERSUS

FEDERAL POWER COMMISSION,
Respondent.

AMICI CURIAE BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

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March, 1974

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The States of Kansas, New Mexico and Oklahoma support the petition of the State of Louisiana and allied intervenors that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit entered in this proceeding on June 28, 1973.

INTEREST AND ARGUMENT

Oklahoma, New Mexico and Kansas are, respectively, the third, fourth and fifth largest natural gas producing states in the nation. Together with Texas and Louisiana, these amici produced 92.7 per cent of all gas marketed in

the United States in 1971 and 91.2 per cent of all such gas in 1972.

In addition, a substantial percentage of the gas produced in these states is delivered to ultimate consumers within their borders by both interstate and intrastate pipelines although the major share of such gas, 65 per cent, is exported to other states.[1] Like Louisiana, Kansas, New Mexico and Oklahoma have intrastate pipelines within their borders which Congress did not subject to federal regulation in any respect, in enacting the Natural Gas Act of 1938, as amended. Such intrastate pipelines are presently subject only to state regulation and, in addition, each of the amici regulates the rates and services for local distribution of natural gas which is in itself exempt from all provisions of the Act under Section 1(b). Such state regulation also constitutes the basis for a so-called "Hinshaw" exemption under Section 1(c). Kansas, New Mexico and Oklahoma believe they are entitled to perpetuate their existing control over the operations of these intrastate pipelines which are a vital element in their economic welfare.

These amici believe that unless the decision below is reversed it will, with respect to certain of such intrastate pipelines, either eliminate or substantially dilute local control by transferring these state functions to the Federal Power Commission. They further believe that this case presents issues of exceptional and nationwide importance which warrant review by this Honorable Court for the reasons stated at length by Louisiana in its petition for certiorari.

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[1] See Appendix A hereto.

CONCLUSION

WHEREFORE, Kansas, New Mexico and Oklahoma respectfully pray that Louisiana's petition for certiorari be granted.

Respectfully submitted,

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APPENDIX A

NATURAL GAS PRODUCTION AND USE WITHIN THE FIVE LEADING PRODUCING STATES

1971[1]

State	Marketed Production in millions of cubic feet	Rank	Percentage of State-produced gas used within State
Texas	8,550,705	1	49.1
Louisiana	8,081,907	2	22.6
Oklahoma	1,684,260	3	25.4
New Mexico	1,657,577	4	35.6
Kansas	885,144	5	26.4
TOTAL	20,859,393		34.8
U. S. Total	22,493,012		

1972[2]

Texas	8,657,840	1	[3]
Louisiana	7,972,678	2	
Oklahoma	1,806,887	3	
New Mexico	1,216,061	4	
Kansas	889,268	5	
TOTAL	20,542,734		
U. S. Total	22,531,698		

[1] Source: *Gas Facts*, 1971, American Gas Association, tables 26 and 30.

[2] Source: *Gas Facts*, 1972, American Gas Association, table 26.

[3] No data available for 1972.

CERTIFICATE OF SERVICE

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